

Weston Board of Selectmen
Special Meeting Minutes
Tuesday, September 4, 2018 at 9:00 am
Town Hall Meeting Room

- 1- Call to order: First Selectman Chris Spaulding called the meeting to order at 9:30 am. Present were Selectman Brian Gordon (arrived at 9:45 am) and Selectman Stephan Grozinger. Also present was Town Administrator Jonathan Luiz and audience members.
- 2- Pledge of Allegiance: Ken Edgar, Chairman of the Planning and Zoning Commission, led in the Pledge.
- 3- Discussion/decision regarding a Supplemental Appropriation Request in the amount of \$27,030 from the Planning and Zoning Commission for Plan of Conservation and Development consulting services: Members of the Planning and Zoning Commission explained the need for the supplemental appropriation. Selectman Grozinger moved and First Selectman Spaulding seconded to approve a supplemental appropriation in the amount of \$27,030 for Plan of Conservation and Development consulting services. The motion carried 2-0, with First Selectman Spaulding and Selectman Grozinger voting in favor.
- 4- Discussion / decision to establish a public hearing concerning a proposed ordinance prohibiting fracking waste: The Town Attorney provided information about this proposed ordinance. First Selectman Spaulding moved and Selectman Brian Gordon seconded to establish a public hearing on October 4, 2018 at 7:30 pm in the Town Hall Meeting Room concerning a proposed ordinance prohibiting fracking waste (attached as Exhibit A). The motion carried 2-1, with First Selectman Spaulding and Selectman Gordon voting in favor and Selectman Grozinger voting opposed.
- 5- Discussion / decision to establish a public hearing concerning a proposed ordinance regulating the municipal separate storm sewer system: First Selectman Spaulding moved and Selectman Brian Gordon seconded to establish a public hearing on October 4, 2018 at 7:30 pm in the Town Hall Meeting Room concerning a proposed ordinance regulating the municipal separate storm water system (attached as Exhibit B). The motion carried 2-1, with First Selectman Spaulding and Selectman Gordon voting in favor and Selectman Grozinger voting opposed.
- 6- Discussion / decision to establish a public hearing concerning a proposed amendment to Chapter 39 of the Town Code of Ordinances that would enable the Town to enforce

ordinance violations by issuing civil citations with monetary penalties: Selectman Grozinger moved and Selectman Gordon seconded to establish a public hearing on October 4, 2018 at 7:30 pm in the Town Hall Meeting Room concerning a proposed amendment to Chapter 39 of the Town Code of Ordinances that would enable the town to enforce ordinance violations by issuing civil citations with monetary penalties (attached as Exhibit C). The motion carried unanimously.

- 7- Discussion / decision to establish a public hearing concerning a proposed amendment to Chapter 145 of the Town Code of Ordinances that would enable the Town to issue citations to enforce violations of the Code: Selectman Grozinger moved and Selectman Gordon seconded to establish a public hearing on October 4, 2018 at 7:30 pm in the Town Hall Meeting Room concerning a proposed amendment to Chapter 145 of the Town Code of Ordinances that would enable the town to issue citations to enforce violations of the Code (attached as Exhibit D). The motion carried unanimously.
- 8- Discussion / decision to establish a public hearing concerning a proposed ordinance prohibiting the use of plastic bags in retail establishments: Selectman Gordon moved and First Selectman Spaulding seconded to establish a public hearing on October 4, 2018 at 7:30 pm in the Town Hall Meeting Room concerning a proposed ordinance prohibiting the use of plastic bags in retail establishments (attached as Exhibit E). The motion carried 2-1, with First Selectman Spaulding and Selectman Gordon voting in favor and Selectman Grozinger voting opposed.
- 9- Adjournment: Selectman Grozinger moved and Selectman Gordon seconded to adjourn. The meeting adjourned at 11:01 am.

Minutes submitted by Jonathan Luiz.

EXHIBIT A

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF SELECTMEN THAT: The Town of Weston Code of Ordinances is amended to add a new Chapter prohibiting the unlawful storage, disposal or use of waste from hydraulic fracturing, as follows:

CHAPTER ____: UNLAWFUL STORAGE, DISPOSAL OR USE OF WASTE FROM HYDRAULIC FRACTURING.

I. PURPOSE

Consistent with Conn. Gen. Stat. § 22a-472, et seq., as the same may be amended from time to time, the purpose of this ordinance is to protect the health, safety and general welfare of the public by prohibiting the unlawful use and storage of Waste from Hydraulic Fracturing within the Town.

II. DEFINITIONS

- (1) "Code Enforcement Officer" means the Compliance Officer for the Town of Weston.
- (2) "Dispose" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any Waste from Hydraulic Fracturing, or any constituent of such Waste from Hydraulic Fracturing, into or on any land or water within the Town;
- (3) "Fluid" means any material or substance that flows or moves whether in semisolid, liquid, sludge, slurry, gas or any other form or state;
- (4) "Gas" means all natural gas, whether hydrocarbon or non-hydrocarbon, including, but not limited to, hydrogen sulfide, helium, carbon dioxide, nitrogen, hydrogen and casing head gas;
- (5) "Oil" means all petroleum or crude oil that is a naturally-occurring flammable mixture of hydrocarbons found in geological formations;
- (6) "Hydraulic Fracturing" means the process of pumping a fluid into or under the surface of the ground in order to create fractures in rock for exploration, development, production or recovery of gas or oil. "Hydraulic fracturing" does not include the drilling or repair of a geothermal water well or any other well drilled or repaired for drinking water purposes;
- (7) "Person" means any individual, firm, partnership, association, syndicate, company, trust, corporation, limited liability company, municipality, agency or political or administrative subdivision of the state;
- (8) "Radioactive materials" means any material, solid, liquid or gas, including, but not limited to, waste that emits ionizing radiation spontaneously;
- (9) "Store" means holding Waste from Hydraulic Fracturing for any period of time, be it temporary, intermediate, long term or indefinite;
- (10) "Transfer" means to move from one vehicle to another or to move from one mode of transportation to another;
- (10) "Treat" means any method, technique or process designed to change the physical, chemical or biological character or composition of any Waste from Hydraulic

Fracturing, including, but not limited to, the reclaiming or rendering of Waste from Hydraulic Fracturing as suitable for use or reuse; and

- (11)"Waste from Hydraulic Fracturing" means any wastewater, wastewater solids, brine, sludge, drill cuttings or any other substance used for or generated secondarily to the purpose of hydraulic fracturing.

III. PROHIBITIONS

- a) No person may accept, receive, collect, store, treat, transfer or dispose of any Waste from Hydraulic Fracturing within the Town.
- b) No person may sell, offer for sale, offer, barter, manufacture, distribute or use any product for anti-icing, de-icing, pre-wetting or dust suppression that is derived from or that contains Waste from Hydraulic Fracturing unless such product is approved for use by the Connecticut DEEP.
- c) Nothing in this ordinance is intended to prohibit the use of oil and gas products that may contain Waste from Hydraulic Fracturing as incidental to the necessary use of such oil or gas products for road or driveway resurfacing and/or other similar construction and/or manufacturing processes, as long as such products are not prohibited for the intended use by the Connecticut DEEP.

IV. ENFORCEMENT

The Code Enforcement Officer is empowered to issue "Cease and Desist" orders in the case of any infraction of this ordinance. Such office or officer is further empowered to seek injunctive relief from a court of law, including but not limited to, a court order requiring remediation of any damage done to any land, road, building, aquifer, well, watercourse, air quality or other asset within the Town, be it public or private. The Town shall be entitled to recoup all costs, including reasonable expert and attorney's fees, incurred in enforcing this ordinance and/or its remediation efforts. Such office or agent also may issue citations pursuant to Chapter 39 of the Code of Ordinances and may impose fines in the amount of \$250 per violation. Each day of a continuing violation of this ordinance shall be deemed a separate violation for purposes of assessing such fines and penalties. All persons issued a citation for violation of this Chapter shall have a right to contest liability pursuant to Chapter 39 of the Code of Ordinances.

EXHIBIT B

WHEREAS; the State of Connecticut Department of Environmental Protection ("DEEP") issued a General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems on January 20, 2016, effective July 1, 2017 ("General Permit");

WHEREAS; the Town of Weston is subject to the requirements of the General Permit;

WHEREAS; the General Permit requires that the Town establish legal authority to provide for the health, safety, and general welfare of the citizens of Weston through the regulation of non-stormwater discharges to the Storm Drainage System to the maximum extent practicable, as required by federal and state law.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SELECTMEN THAT: Chapter __, "Regulation of Municipal Separate Storm Sewer System", is adopted and shall be added to the Town of Weston Code of Ordinances as follows:

CHAPTER __ REGULATION OF MUNICIPAL SEPARATE STORM SEWER SYSTEM

Sec. 1: Purpose/Intent

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Weston through the regulation of non-stormwater discharges to the Storm Drainage System to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system ("MS4") in order to comply with requirements of the National Pollutant Discharge Elimination System ("NPDES") permit process. The objectives of this ordinance are:

1. To regulate the contribution of pollutants to the Storm Drainage System through stormwater discharges by any user;
2. To prohibit and eliminate illicit connections and discharges to the Storm Drainage System;
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance; and
4. To ensure compliance with the State of Connecticut Department of Environmental Protection ("DEEP") General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems on January 20, 2016, effective July 1, 2017.

Sec. 2: Definitions.

For the purposes of this ordinance, the following definitions shall apply:

Best management practices (BMPs): Schedules of activities, prohibition of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act: The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Code Enforcement Officer: The Compliance Officer for the Town of Weston.

Construction activity: Activities subject to NPDES construction permits. Currently these include construction projects resulting in land disturbance of five (5) acres or more. Beginning in March 2003, NPDES storm water phase II permits have been required for construction projects resulting in land disturbance of one (1) acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Facility: Any building, lot, parcel of land, or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

First Selectman: The First Selectman of the Town of Weston or his/her authorized designee.

Hazardous materials: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal discharge: Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Section 7 of this ordinance.

Illicit connections: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the First Selectman; any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the First Selectman or other public official or body having jurisdiction thereof.

Industrial activity: Activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26 (b)(14).

National Pollutant Discharge Elimination System (NPDES) storm water discharge permit: A permit issued by EPA (or by a state under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-stormwater discharge: Any discharge to the storm drain system that is not composed entirely of stormwater.

Person: and individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Storm drainage system [also known as Municipal Separate Storm Sewer System or MS4]: Publicly-owned Facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping Facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Stormwater: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater pollution prevention plan: A document that describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

Wastewater: Any water or other liquid, other than uncontaminated stormwater, discharged from a Facility.

Watercourse: A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water. This includes but is not limited to lakes, ponds, rivers, streams and any other surface water defined as a watercourse by the town's inland wetland regulations.

Sec. 3: Applicability.

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the First Selectman or Code Enforcement Officer in accordance with Section 7.B. of this ordinance.

Sec. 4: Responsibility for Administration.

The First Selectman and the Code Enforcement Officer shall administer, implement, and enforce the provisions of this ordinance. The First Selectman may delegate his/her powers and duties under this ordinance to an authorized designee.

Sec. 5: Severability.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

Sec. 6: Ultimate Responsibility.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

Sec. 7: Discharge Prohibitions.

A. Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the Storm Drainage System any materials, including but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

B. Exceptions.

1. The following discharges, provided that they do not contribute to a violation of water quality standards and are not significant contributors of pollutants to the Storm Drainage System: uncontaminated ground water discharges including, but not limited to, pumped ground water, foundation drains, water from crawl space pumps and footing drains; irrigation water including, but not limited to, landscape irrigation and lawn watering runoff; residual street wash water associated with sweeping; discharges or flows from firefighting activities (except training); and naturally occurring discharges such as rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20)), springs, diverted stream flows and flows from riparian habitats and wetlands.

2. Discharges specified in writing by the First Selectman as being necessary to protect public health and safety.

3. Dye testing, provided that a written notification has been provided to the Code Enforcement Officer prior to the time of the test. Said written notification may be in the form of electronic mail, facsimile transmission or hard copy letter format.

4. Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

C. Prohibition of Illicit Connections.

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

3. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the Storm Drainage System, or allows such a connection to continue.

Sec. 8: Suspension of Storm Drainage System Access.

A. Suspension Due to Illicit Discharges in Emergency Situations.

The First Selectman may, without prior notice, suspend Storm Drainage System discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the Storm Drainage System or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the First Selectman may take such steps as deemed necessary to prevent or minimize damage to the Storm Drainage System or Waters of the United States, or to minimize danger to persons.

B. Suspension Due to the Detection of Illicit Discharge.

Any person discharging to the Storm Drainage System in violation of this ordinance may have their Storm Drainage System access terminated if such termination would abate or reduce an illicit discharge. The Code Enforcement Officer will notify a violator of the proposed termination of its Storm Drainage System access. The violator may petition the Code Enforcement Officer for reconsideration and hearing.

A person commits an offense if the person reinstates Storm Drainage System access terminated pursuant to this subsection, without the prior approval of the Code Enforcement Officer.

Sec. 9: Industrial or Construction Activity Discharges.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Code Enforcement Officer prior to the allowing of discharges to the Storm Drainage System.

Sec. 10: Monitoring of Discharges.

A. Applicability.

This subsection applies to all Facilities that have stormwater discharges.

B. Access to Facilities.

1. Upon the consent of Facility owners, the Code Enforcement Officer shall be permitted to enter and inspect Facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the Code Enforcement Officer.

2. Facility operators shall allow the Code Enforcement Officer ready access to all parts of the Facility for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of a town, state or federal NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

3. The Code Enforcement Officer shall have the right to set up on any NPDES permitted Facilities such devices as are necessary in the opinion of the Code Enforcement Officer to conduct monitoring and/or sampling of the Facility's stormwater discharge.

4. The Code Enforcement Officer has the right to require the installation of sampling and monitoring equipment on any NPDES permitted Facility by the discharger at its own expense. The Facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

5. Any temporary or permanent obstruction to safe and easy access to the Facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Code Enforcement Officer and shall not be replaced. The costs of clearing such access shall be borne by the operator.

6. Unreasonable delays in allowing the Code Enforcement Officer access to a permitted Facility is a violation of a stormwater discharge permit and of this ordinance. A person who is the operator of a Facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the Code Enforcement Officer reasonable access to the permitted Facility for the purpose of conducting any activity authorized or required by this ordinance.

7. If the Code Enforcement Officer has been refused access to any part of the Facility from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Code Enforcement Officer may seek issuance of a search warrant from any court of competent jurisdiction.

Sec. 11: Requirement to Prevent, Control and Reduce Stormwater Pollutants by the Use of Best Management Practices.

The First Selectman will adopt requirements identifying best management practices for any activity, operation, or Facility which may cause or contribute to pollution or contamination of stormwater, the Storm Drainage System, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the Storm Drainage System or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or Facility, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the Storm Drainage System as directed by the First Selectman. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial or construction activity, to the extent practicable, shall be deemed compliant with the provisions of this subsection. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

Sec. 12: Watercourse Protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Sec. 13: Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a Facility or operation, or responsible for emergency response for a Facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the Storm Drainage System, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Code Enforcement Officer in person or by phone, electronic mail or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Code Enforcement Officer within three (3) business days of the notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

Sec. 14: Enforcement.

A. Notice of violation.

1. Whenever the Code Enforcement Officer finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, he or she shall order compliance by written Notice of Violation to the responsible person.

2. Said Notice of Violation may require, without limitation:

- a. The performance of monitoring, analyses, and reporting;
- b. The elimination of illicit discharges or connections;
- c. That violating discharges, practices, or operations shall cease and desist;
- d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- e. Suspension of any discharge to the Storm Drainage System consistent with Section 8 of this ordinance;
- f. The implementation of source control or treatment BMPs; and
- g. Payment of a fine to recover administrative and remediation costs.

3. If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed.

4. Where elimination of an illicit discharge or connection is not possible within 60 days, a schedule for its elimination will be set for no more than 180 days.

5. Said Notice of Violation shall include a statement informing the violator that, should the violator fail to remediate or restore within the established deadline, the

Code Enforcement Officer may order the work be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

6. Any Notice of Violation issued pursuant to this subsection shall be served by hand delivery, certified mail return receipt requested, leaving a true and attested copy of the citation at the usual place of abode or residence of the person in violation, or in the case of a corporate or business entity, delivery to the business address or the address of the statutory agent of said entity.

B. Issuance of Citations

The Code Enforcement Officer may issue a citation and fine in the amount of \$250.00 per day of continuing violation to any person who violates this ordinance, in accordance with the procedures established in Chapter 39 of the Town of Weston Code of Ordinances.

C. Payment of Fines

1. All fines imposed under this ordinance which are uncontested shall be made payable to the Town of Weston and shall be received by the Code Enforcement Officer within ten (10) business days from receipt of the citation. All fines collected by the Code Enforcement Officer shall be deposited into the Town of Weston General Fund.

2. If no payment is received for any fine imposed under this ordinance within the time allowed for payment, then the Code Enforcement Officer shall act in accordance with the procedures established in Chapter 39 of the Town of Weston Code of Ordinances.

Sec. 15: Citation Hearing Procedure.

The hearing procedure for any citation issued pursuant to this ordinance shall be in accordance with the procedures established in Chapter 39 of the Town of Weston Code of Ordinances.

Sec. 14: Appeal to Superior Court.

Any person or entity aggrieved by a finding, determination, notice order or action taken under the provisions of this ordinance may appeal and shall be advised of his right to appeal in accordance with the procedures established in Chapter 39 of the Town of Weston Code of Ordinances.

Sec. 15: Injunctive Relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. If a person has violated or continues to violate the provisions of this ordinance, the Code Enforcement Officer may petition for a temporary

or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

Sec. 16: Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the Code Enforcement Officer may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, watershed cleanup, or other related activities.

Sec. 17: Violations Deemed a Public Nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

Sec. 18: Criminal prosecution.

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law. The Code Enforcement Officer may recover all attorneys' fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Sec. 19: Remedies not exclusive.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Code Enforcement Officer to seek cumulative remedies.

EXHIBIT C

WHEREAS; pursuant to Conn. Gen. Stat. § C.G.S. § 7-148(c)(10)(A), the Town of Weston is authorized to enforce violations of the Code of Ordinances by civil citation; and

WHEREAS; the existing Chapter 39 of the Code of Ordinances currently authorizes the enforcement of violations of certain Zoning and Inlands and Wetlands Regulations by citation and establishes a process for hearing and appeal of contested citations pursuant to Conn. Gen. Stat. § 7-152c; and

WHEREAS; in order to enforce violations of the Code of Ordinances by civil citation, the Town of Weston must amend Chapter 39 to authorize enforcement of violations of the Code of Ordinance by civil citation; and

WHEREAS; in order to enforce violations of the Code of Ordinances by civil citation, the Town of Weston must further amend Chapter 39 to apply the existing hearing and appeal procedure to citations issued for violation of the Code of Ordinances.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF SELECTMEN THAT: Chapter 39, "Citations", is amended to authorize the enforcement of the Code of Ordinances by civil citation and to apply the existing process for hearing and appeal to such citations, as follows:

Article I: Zoning

§ 39-1 Purpose.

The purpose of this article is to enable the Town of Weston to more effectively enforce its Zoning Regulations, with the implementation of fines for violations. This article creates an additional, local enforcement procedure but not an exclusive alternative. This article is not intended, and it shall not be construed, as limiting or supplanting the enforcement remedies existing under Connecticut General Statutes § 8-12.

§ 39-2 Definitions.

Except where specifically defined herein, all words shall carry their customary meaning. As used in this article, the following terms shall have the meanings indicated:

CODE ENFORCEMENT OFFICER. The Zoning Inspector, also known as the "Zoning Enforcement Officer" and "Compliance Officer," appointed by the Planning and Zoning Commission.

COMMISSION. The Planning and Zoning Commission of the Town of Weston.

REGULATIONS. The Zoning Regulations of the Town of Weston, as the same may be amended from time to time by the Planning and Zoning Commission.

§ 39-3 Issuance of citations.

The Code Enforcement Officer is hereby authorized to issue citations for violations of the Zoning Regulations of the Town of Weston to the extent and in the manner provided by this article, provided that the Code Enforcement Officer issues a written warning providing notice of the specific violation before issuing the citation. Any such citation may be served either by hand delivery or by certified mail, return receipt requested, to the person named in such citation. If the person named in a citation sent by certified mail, return receipt requested, fails or refuses to accept such mail, the citation may then be sent by certified mail (without return receipt). The Code Enforcement Officer shall retain a copy of the citation.

§ 39-4 Contents of citation.

The citation shall inform such person:

- A. Of the allegations against him or her and the amount of the fines.
- B. That the person has a period of 10 days from the date of the citation (i.e., the date of hand delivery or the date the citation was mailed) to make an uncontested payment of the fines.
- C. That payments shall be made payable to the Treasurer of the Town of Weston at Town Hall.

§ 39-5 Violations for which citations may be issued.

A citation may be issued by the Code Enforcement Officer for any violation of the Zoning Regulations.

§ 39-6 Amount of fine.

The fine for each such citation under this article shall be \$150 and shall be payable to the Treasurer of the Town of Weston. Each day that any violation continues shall be deemed a separate offense for which a separate citation may be issued.

Article II: Wetlands and Watercourses

§ 39-7 Purpose.

The purpose of this article is to enable the Town of Weston to more effectively enforce its Inland Wetlands and Watercourses Regulations, with the implementation of fines for violations. This article creates an additional, local enforcement procedure but not an ex-

clusive alternative. This article is not intended, and it shall not be construed, as limiting or supplanting the enforcement remedies existing under Connecticut General Statutes § 22a-44.

§ 39-8 Definitions.

Except where specifically defined herein, all words shall carry their customary meaning. As used in this article, the following terms shall have the meanings indicated:

CODE ENFORCEMENT OFFICER. The Wetlands Enforcement Officer, also known as the "Compliance Officer," appointed by the Board of Selectmen.

COMMISSION. The Conservation Commission of the Town of Weston.

REGULATIONS. The Inland Wetlands and Watercourses Regulations of the Town of Weston, as the same may be amended from time to time by the Conservation Commission.[1]

§ 39-9 Issuance of citations.

The Code Enforcement Officer is hereby authorized to issue citations for violations of the regulations, to the extent and in the manner provided by this article, provided that the Code Enforcement Officer issues a written warning providing notice of the specific violation before issuing the citation. Any such citation may be served either by hand delivery or by certified mail, return receipt requested, to the person named in such citation. If the person named in a citation sent by certified mail, return receipt requested, fails or refuses to accept such mail, the citation may then be sent by certified mail (without return receipt). The Code Enforcement Officer shall retain a copy of the citation.

§ 39-10 Contents of citation.

The citation shall inform such person:

- A. Of the allegations against him or her and the amount of the fines.
- B. That the person has a period of 10 days from the date of the citation (i.e., the date of hand delivery or the date the citation was mailed) to make an uncontested payment of the fines.
- C. That payments shall be made payable to the Treasurer of the Town of Weston at Town Hall.

§ 39-11 Violations for which citations may be issued.

A citation may be issued by the Code Enforcement Officer for any violation of the Inland Wetlands and Watercourses Regulations.

§ 39-12 Amount of fine.

The fine for each such citation under this article shall be \$250.00 and shall be payable to the Treasurer of the Town of Weston for deposit into the general fund of the Town. Each day that any violation continues shall be deemed a separate offense for which a separate citation may be issued.

Article III: Ordinances

§ 39-20: Purpose.

The purpose of this article is to enable the Town of Weston to more effectively enforce its Code of Ordinances with the implementation of fines for violations. This article creates an additional, local enforcement procedure but not an exclusive alternative. This article is not intended, and it shall not be construed, as limiting or supplanting the enforcement remedies existing under the Connecticut General Statutes.

§ 39-21: Definitions.

Except where specifically defined herein, all words shall carry their customary meaning. As used in this article, the following terms shall have the meanings indicated:

CODE ENFORCEMENT OFFICER. The Compliance Officer of the Town of Weston.

CODE: The Town of Weston Code of Ordinances, as the same may be amended from time to time by the Board of Selectmen or Town Meeting.

§ 39-22: Issuance of citations.

A. The Code Enforcement Officer is hereby authorized to issue citations for violations of the Code to the extent and in the manner provided by this article, provided that the Code Enforcement Officer issues a written warning providing notice of the specific violation before issuing the citation.

B. Any such citation may be served either by hand delivery or by certified mail, return receipt requested, to the person named in such citation and to any lienholder pursuant to C.G.S. § 7-148gg, if applicable. If the person named in a citation sent by certified mail, return receipt requested, fails or refuses to accept such mail, the citation may then be sent by certified mail (without return receipt). The Code Enforcement Officer shall retain a copy of the citation.

§ 39-23: Contents of citation.

The citation shall inform such person:

- A. Of the allegations against him or her and the amount of the fines.
- B. That the person has a period of 10 days from the date of the citation (i.e., the date of hand delivery or the date the citation was mailed) to make an uncontested payment of the fines.
- C. That payments shall be made payable to the Treasurer of the Town of Weston at Town Hall.

§ 39-24: Violations for which citations may be issued.

A citation may be issued by the Code Enforcement Officer for violation of any Code provisions that have been designated specifically by the Town of Weston for enforcement by citation in the same manner in which they were adopted.

§ 39-25: Amount of fine.

The fine for each citation under this article shall be the General Penalty amount set forth in Section 1-6 of the Code, unless otherwise specified in the Code, and shall be payable

to the Treasurer of the Town of Weston for deposit into the general fund of the Town. Each day that any violation continues shall be deemed a separate offense for which a separate citation may be issued.

Article IV: Post Citation Procedures

§ 39-30 Nonpayment of fine; notice; request for hearing.

A. If a person who has been issued a citation under Article I, Article II or Article III does not make uncontested payment of the fine specified in the citation to the Treasurer within the time allowed in § 39-4, 39-10 or 39-23, then, at any time within 12 months from the expiration of the final period for the uncontested payment of the fines, the Code Enforcement Officer shall send a notice to the person cited informing such person:

1. Of the allegations against him or her and the amount of the fines;
2. That the person cited may contest liability before a hearing officer appointed by the First Selectman, as provided in this article, by delivering, in person or by mail, within 10 days from the date of the notice, a written demand for a hearing;
3. That if the person cited does not demand such a hearing an assessment and judgment shall be rendered against him or her; and
4. That such judgment may issue without further notice.

§ 39-31 Liability by default.

Any person who does not deliver or mail such payment or who does not deliver or mail a demand for a hearing within the time specified shall be deemed to have admitted liability, and the Code Enforcement Officer shall certify to the hearing officer that such person has failed to respond. The hearing officer shall thereupon enter and assess the fines provided for by this chapter and shall follow the procedures set forth below regarding notice of assessment.

§ 39-32 Hearings in contested cases.

Any person who requests a hearing shall be given written notice of the date, time and place for the hearing. Such hearing shall be held not less than 15 days nor more than 30 days from the date of the mailing of the notice, provided that the hearing officer shall grant, upon good cause shown, any reasonable request by any interested party for postponement or continuance. An original or certified copy of the citation shall be filed at the hearing. The presence of the Code Enforcement Officer shall be required at the hearing if requested by the person who was issued the citation. A person wishing to contest liability shall appear at the hearing and may present evidence in his or her behalf. The person contesting liability has a right to due process and shall be provided fair opportunity to present evidence to the hearing officer. The person contesting liability

may be represented by counsel. The Code Enforcement Officer may present evidence on behalf of the municipality. If the person who received the citation fails to appear, the hearing officer may enter an assessment by default against him or her upon a finding of proper notice and liability under the applicable provisions of the regulations and upon a finding of the number of days that each violation occurred. The hearing officer may accept written information by mail from the person who received the citation and may determine thereby that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order and from and with such methods of proof as he or she deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The hearing officer shall announce his or her decision at the end of the hearing. If the hearing officer determines that the person who received the citation is not liable, the hearing officer shall dismiss the matter and enter that determination accordingly. If the hearing officer determines that the person who received the citation is liable for the violation, the hearing officer shall forthwith enter and assess the fines against such person as provided by this chapter.

§ 39-33 Notice of assessment.

If such assessment is not paid on the date of its entry, the hearing officer shall send by first-class mail a notice of the assessment to the person found liable and shall file, not less than 30 days nor more than 12 months after such mailing, a certified copy of the notice of assessment with the Clerk of the Superior Court for the geographical area in which the Town is located, together with an entry fee as required by § 7-152c of the Connecticut General Statutes, as the same may be amended from time to time. Further proceedings may then be held pursuant to the applicable provisions of the Connecticut General Statutes.

§ 39-34 Appointment of hearing officers.

The First Selectman of the Town of Weston shall appoint one or more citation hearing officers to conduct the hearings provided by this chapter. Neither the Code Enforcement Officer, the Building Inspector, the Conservation Planner, nor any member of the Planning and Zoning Commission, nor any member of the Zoning Board of Appeals, nor any member of the Conservation Commission, nor any police officer, nor any Town employee may be appointed as a hearing officer pursuant to this chapter.

§ 39-35 Appeals to Superior Court.

A person against whom an assessment has been entered pursuant to this chapter is entitled to judicial review by way of appeal. An appeal shall be instituted within 30 days of the mailing of notice of such assessment by filing a petition to reopen the assessment, together with an entry fee equal to the entry fee for a small claims case pursuant

to § 52-259 of the Connecticut General Statutes, in the Superior Court for the geographical area in which the Town is located, which shall entitle such person to a hearing in accordance with the rules of the judges of the Superior Court.

EXHIBIT D

WHEREAS; the Town of Weston Code of Ordinances presently authorizes a general penalty for violations of the Code pursuant to Chapter 1 § 6, "General Penalty"; and

WHEREAS; the Town of Weston wishes to enforce violations of Chapter 145, "Property Maintenance", by civil citation in the amount of the general penalty.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF SELECTMEN THAT: Chapter 145, "Property Maintenance", is amended to designate citations as a method for enforcement:

Sec. 145-5 "Enforcement" (New)

Any person who violates any provision of this chapter shall be subject to a penalty as set forth in Chapter 1 § 6 of this Code. The Town of Weston may enforce any violation of this Chapter by citation pursuant to Chapter 39 of this Code.

EXHIBIT E

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF SELECTMEN THAT: The Town of Weston Code of Ordinances is hereby amended to prohibit the commercial use of single-use plastic bags as follows:

ORDINANCE REGARDING RETAIL CHECKOUT BAGS

1. Purpose

The Town of Weston is committed to protecting the environment and the public health, safety, and welfare of its citizens. The goal of this ordinance is to reduce the common use of plastic checkout bags and to encourage the use of reusable bags by consumers, thereby reducing local land and marine pollution, advancing solid waste reduction, protecting the Town's unique natural beauty and irreplaceable natural resources, and improving the quality of life for the citizens of the Town.

2. Findings

2.1 Single-use plastic bags are an environmental nuisance; adversely affect public health; are a detriment to tourism; and impair the overall quality of life of the Town's residents and visitors.

- a. Because plastic bags are lightweight, they easily become airborne even when properly disposed of, littering beaches, roadsides and sidewalks. They clog storm drainage systems, contribute to marine and terrestrial pollution, and detract from the natural beauty of the Town for visitors and residents alike.
- b. Plastic bags photo-degrade, disintegrating into minute particles which adsorb toxins and pose a threat to riparian and marine environments, contaminating the food chain, water and soil. They are also a menace to marine life, killing birds, marine mammals, sea turtles and fish each year through ingestion and entanglement.
- c. The vast majority of plastic bags are not recycled, and recycling of plastic bags is not available in The Town of Weston. Their disposal adds to the Town's waste management expense, both through the cost of transporting waste to landfills and due to their contamination of the single-stream recycling system.

2.2 Single-use plastic bag ordinances have proven to be effective in reducing plastic bag consumption and litter and are part of a growing global movement towards sustainability.

3. Definitions

3.1 "Checkout Bag" means a carryout bag with or without handles provided by a Store to a customer at the point of sale that is intended for the purpose of transporting food or merchandise out of the Store. The term "checkout bag" does not include Product Bags.

3.2 "Code Enforcement Officer" means the Compliance Officer for the Town of Weston.

3.3 “Product Bag” - means a flexible container made of very thin plastic material with a single opening that is used to transport clothing from a dry cleaner, produce, meats, small unpackaged products (e.g. beads and nails or other small hardware items) or other items selected by customers to the point of sale.

3.4 “Recyclable Paper Bag” means a paper bag with or without handles that is 100 percent recyclable and contains at least 40% post-consumer recycled content (except that an eight pound or smaller paper bag shall contain a minimum of 20% post-consumer recycled content) and visibly displays both the word “recyclable” and “reusable” on the outside of the bag and the percentage of post-consumer recycled content. Bag must contain no old growth fiber and must be FSC certified.

3.5 “Reusable Bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and is (1) made of cloth or other washable fabric, and/or (2) made of durable plastic that is at least 4.0 mils thick.

3.6 “Retail Sales” - means the transfer to a customer of goods in exchange for payment occurring in retail stores, sidewalk sales, farmer’s markets, flea markets and restaurants. The term “Retail Sales” does not include sales of goods at yard sales, tag sales, other sales by residents at their home, and sales by non-profit and governmental organizations.

3.7 “Store” means any commercial enterprise engaging in Retail Sales.

4. Use Regulations; Exception

4.1 Any person engaged in retail sales shall provide only Reusable Bags and/or Recyclable Paper Bags as Checkout Bags to customers. No Store in the Town shall provide plastic Checkout Bags to any customer.

4.2 If a Store provides Checkout Bags, they shall only provide Recyclable Paper Bags or Reusable Bags.

4.3 This ordinance shall not apply to Product Bags.

5. Recyclable Paper and Reusable Bag Fees; Exceptions

5.1 Stores shall charge and retain a fee of not less than \$0.10 for each Recyclable Paper Bag or Reusable Bag provided to a customer.

5.2 Nothing in this ordinance shall prohibit a Store from encouraging and providing incentives for the use of Reusable Bags. Stores may use credits or rebates for customers that bring their own Reusable Bags for the purpose of carrying away goods.

5.3 The fee for Recyclable Paper Bags shall not apply to customers making purchases using supplemental nutrition assistance program (SNAP) and supplemental nutrition program for women,

infants, and children (WIC) or “food stamps.” These customers will receive Recyclable Paper Bags free of charge.

6. Penalty Amount

Any violation of this ordinance shall be punishable by a civil fine of \$150 per incident.

7. Enforcement

7.1 The Code Enforcement Officer shall be authorized to enforce violations of this ordinance.

7.2 The Code Enforcement Officer shall provide written notice to any person who violates this ordinance. Upon subsequent violation by the same person, the Code Enforcement Officer shall issue a citation as provided for in Chapter 39 of the Code. Repeat offenders shall be issued additional citations without first receiving a notice of violation.

8. Effective Date

This ordinance shall take effect three (3) months from the date of adoption.